

**BellSouth Telecommunications, Inc.**

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January 16, 2001

**Guy M. Hicks**  
General Counsel

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VIA HAND DELIVERY

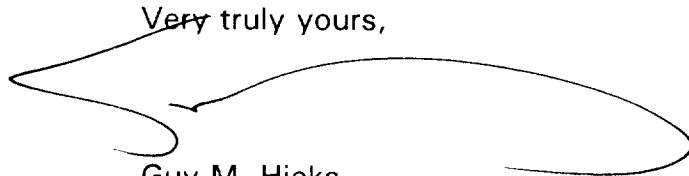
David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Tariff Filing of BellSouth Telecommunications, Inc. to Reduce Grouping  
Rates in Rate Group 5 and to Implement a 3% Late Payment Charge*  
Docket No. 00-00041

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Response to Consumer Advocate Division's Motion to Compel Answers, to have Answers Deemed Admitted, and to Modify Scheduling Order to Permit the Taking of Depositions. Copies of the enclosed are being provided to counsel of record.

Very truly yours,



Guy M. Hicks

GMH:ch  
Enclosure

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In Re: *BellSouth Telecommunications, Inc.'s Tariff Filing to Reduce Grouping Rates in Rate Group 5 and to Implement a 3% Late Charge*

Docket No. 00-00041

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE  
TO CONSUMER ADVOCATE DIVISION'S MOTION TO  
COMPEL ANSWERS, TO HAVE ANSWERS DEEMED  
ADMITTED, AND TO MODIFY SCHEDULING  
ORDER TO PERMIT THE TAKING OF DEPOSITIONS**

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this Response to the Consumer Advocate Division's ("CAD's") Motion to Compel Answers, to Have Answers Deemed Admitted, and to Modify Scheduling Order to Permit the Taking of Depositions (Motion) filed on January 4, 2001. For each Item to which the CAD's Motion is directed, BellSouth sets forth the Item, BellSouth's response to the Item, and BellSouth's response to the CAD's Motion with regard to that Item.

**Interrogatory No. 3:**

**REQUEST:** For each and every contract entered into by BellSouth for the Accounts in Tennessee, please describe in detail the method(s) BellSouth uses to notify the end user consumer that is has purchased the right to receipt of payment for the end user's account.

**RESPONSE:** Sections A.37 and E.8 of the General Subscriber Services Tariff covers the Billing and Collections Services that BellSouth offers to interexchange carriers and other third party service providers. These tariffs govern BellSouth's

inclusion of third-party service provider charges on BellSouth's bill.

It is the responsibility of the third-party service provider to advise the customer that their charge will be included with the customer's local exchange company's bill if in fact this is the arrangement made with BellSouth. See, e.g., GSST A.37.1.4.A ("The [third-party service provider] must provide the end user with written notification that future charges for the [third-party service provider] will be included on the end user's bill for Local Exchange Service.").

BellSouth, of course, sends a bill to its end users. Aside from any information set forth on such a bill, BellSouth does not expressly notify end user consumers that BellSouth has purchased the right to receipt of payment for their accounts. This should be apparent from BellSouth's response as set forth above.

**Interrogatory No. 5:<sup>1</sup>**

**REQUEST:** If BellSouth contends that Tennessee consumers entered into a principal/agent relationship with any IXC or clearinghouse from whom BellSouth purchases accounts which permit the IXC, CLEC or clearinghouse to create an independent liability between the consumer and any third party, please produce the principal/agent contract, tariff, statutes or rule supporting BellSouth's contention.

**RESPONSE:** BellSouth has no knowledge of the specifics of any "relationship" that is or may be created between a consumer and an IXC, CLEC, or clearinghouse.

As is evident from BellSouth's response, BellSouth cannot state whether it would or would not make such a contention because BellSouth has no knowledge

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<sup>1</sup> Although Paragraph 4 of the CAD's Motion identifies Interrogatory No. 4, it is obvious that this Paragraph actually addresses Interrogatory No. 4.

of the specifics of any "relationship" that may be created between a consumer and an IXC, CLEC, or a clearinghouse.

**Interrogatory No. 6:**

**REQUEST:** Tennessee consumers contend that the average rate for basic local exchange services on and after June 6, 1995 were average rates which included "float" as defined by the Director Greer at the September 26 2000 conference, if BellSouth disagrees with this contention please provide each and every fact, law or rule upon which BellSouth relies.

**RESPONSE:** BellSouth objects to this Request on the grounds that the information sought is unreasonably cumulative or duplicative. BellSouth has filed numerous documents in this docket which amply inform the CAD of the basis for BellSouth's position that the late payment charge is not a charge for a basic service.

BellSouth stands by its objection, which speaks for itself. Moreover, BellSouth's agreement or disagreement with Director Greer's "contention" is irrelevant because the TRA has ruled that BellSouth's late payment charge is not a charge for a basic service.

**Interrogatory No. 7:**

**REQUEST:** Assume the hypothetical that rates for basic local exchange services on June 6, 1995 included the working capital necessary to compensate BellSouth for late payments of customer taking advantage of "float", is it BellSouth's position that it would still be able to add a late payment charge to basic local exchange services if the company chose to do so?

**RESPONSE:** BellSouth objects to this Request on the grounds that the information sought is unreasonably cumulative or duplicative. BellSouth has filed numerous documents in

this docket which amply inform the CAD of the basis for BellSouth's position that the late payment charge is not a charge for a basic service.

Moreover, by a 2-1 vote, the TRA has upheld its previous decision that BellSouth's late payment charge "does not fit within the Section 65-5-208(a)(1) definition of basic service." Tr. at 18. BellSouth, therefore, further objects to this Request on the grounds that it is irrelevant and that the information sought does not appear reasonably calculated to lead to the discovery of admissible evidence.

BellSouth stands by its objection, which speaks for itself.

**Interrogatory No. 14:**

**REQUEST:** For each and every contract through which BellSouth purports to provide a bill processing service(s) or to purchase the accounts of any CLEC or non-CLEC, please produce any and all copies of all documents wherein the CLEC providing service to the end user discloses to the end user any terms and conditions which subjects that end user to BellSouth's deposit standards regarding service provided by the CLEC.

**RESPONSE:** BellSouth objects to this question on the grounds that BellSouth simply cannot determine what the question is intended to ask. BellSouth further objects to this Request on the grounds that it is irrelevant and that the information sought does not appear reasonably calculated to lead to the discovery of admissible evidence. Deposit standards simply are not an issue in this docket.

BellSouth stands by its objection that this Item seeks irrelevant information.

"Deposit standards" simply are not an issue in this proceeding.

**Interrogatory No. 15:**

**REQUEST:** BellSouth admits that tariffs for basic local exchange services are relevant to the determination of the terms and conditions of service at a particular rate or charge.

**RESPONSE:** Pursuant to Rule 1220-1-2-.11 of the TRA's Rules of Practice and Procedure and Rule 36.01 of the Tennessee Rules of Civil Procedure, BellSouth objects to this request on the grounds that BellSouth simply cannot determine what the request is intended to ask.

The CAD claims that this Item "should be deemed admitted in conformance with the rules of civil procedure." If the CAD had bothered to read either BellSouth's response to this Item or the Rules of Civil Procedure, it would have learned that BellSouth is completely within its rights to object to a vague and confusing request for admission. That is exactly what BellSouth has done, and the CAD's request that the TRA deem this item admitted is simply meritless.

**Interrogatory No. 16:**

**REQUEST:** Please provide a list in either numerical or alphabetical order depicting each telephone number billed a late payment charge after June 6, 1995 and the amount of the charges, excluding private line tariff customers.

a. Please provide any and all information, documents, or taped conversations between BellSouth and the end user wherein the end user authorizes the late charge.

**RESPONSE:** BellSouth objects to this interrogatory on the grounds that it is overly broad and that responding to it would be unduly burdensome. Without waiving this objection, BellSouth states that no Tennessee customer has been charged the late payment charge as proposed in BellSouth's tariff filing under this docket.

BellSouth notes that some Tennessee customers are located in five "fringe areas" listed in BellSouth's General Subscriber Services Tariff (GSST), Section A3.20.5 - .9. In accordance with provisions of BellSouth's tariff which have been in effect for years, customers in these "fringe areas" are subject to the exchange rates and regulations fixed by the regulatory authorities in adjacent states. BellSouth's filing in TRA Docket 00-00041 does not affect the rates, terms and conditions that apply to customers in these "fringe areas."

To the extent that this Item seeks information regarding states other than Tennessee, BellSouth stands by its objection. To the extent that it addresses Tennessee, BellSouth's tariffs did not provide for late payment charges of the type referenced in this Item prior to the TRA's initial decision in this docket. Moreover, as stated in BellSouth's response, no Tennessee customer has been charged the late payment charge as proposed in BellSouth's tariff filing under this docket. Accordingly, with the exception of Tennessee customers located in the "fringe areas" identified in BellSouth's response, BellSouth has plainly stated that no Tennessee customers have been billed a late payment charge after June 6, 1995. To the extent that this Data Request is directed towards customers in those "fringe areas," BellSouth stands by its objections.

**Interrogatory No. 21:**

**REQUEST:** Please completely describe how the company implemented late payment arrangements and made amount determinations on June 6, 1995.

**RESPONSE:** BellSouth objects to this request on the grounds that it is vague and overly broad and that responding to it would be unduly burdensome. BellSouth further objects to this

Request on the grounds that it is irrelevant and that the information sought does not appear reasonably calculated to lead to the discovery of admissible evidence.

The CAD has failed to clarify or restrict its vague and overly-broad request, and it has failed to explain how or why the requested information is relevant to the two issues that remain in this docket. The CAD also has failed to make any showing that responding to the request would not be unduly burdensome. BellSouth, therefore, stands by its objection.

**Interrogatory No. 22:**

**REQUEST:** Please state the interest rate in effect on June 6, 1995 for deferred payment agreements. (Tariff A2.4.3G).

**RESPONSE:** By a 2-1 vote, the TRA has upheld its previous decision that BellSouth's late payment charge "does not fit within the Section 65-5-208(a)(1) definition of basic service." Tr. at 18. BellSouth, therefore, objects to this Request on the grounds that it is irrelevant and that the information sought does not appear reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, BellSouth states that it has no documents in its possession which reflect the actual interest rate that was in effect in 1995.

This docket has nothing to do with the deferred payment arrangements described in Tariff Section A2.4.5.G. Moreover, BellSouth's response plainly states that "it has no documents in its possession which reflect the actual interest rate that was in effect in 1995." There simply is nothing more to compel BellSouth to produce or provide.



**Interrogatory No. 23:**

**REQUEST:** If BellSouth changed its position from one in which the proposed late payment charge was not a service or now relies upon the interim decision that the proposed late payment charge is a service please describe how the service will operate, including but not limited to, how long the service will permit a consumer to continue to be served or provide "float" what types of reporting will be made to credit reporting agencies regarding the period the service is in effect and whether payment of the charge alone will permit the continuation of service and the particular language of the tariff pertaining to any operational features.

**RESPONSE:** BellSouth objects to this request to the extent that it attempts to characterize BellSouth's position in this docket. BellSouth further objects to the request on the grounds that it is vague, confusing, and overly broad.

Without waiving these objections, BellSouth states that it will continue using the same procedures that it uses today to determine whether and when to disconnect service for nonpayment of a bill, and that the same procedures that are used today will continue to be used to determine whether and when to report information to credit reporting agencies. Moreover, the late payment charge is neither a payment for the use of money nor consideration for the forbearance of collecting an amount due to BellSouth. Payment of the late payment charge alone, therefore, will not prevent the disconnection of a customer's service for nonpayment of a bill.

As noted in BellSouth's response to this Item, "BellSouth determines each customer's treatment based on that customer's credit status." BellSouth's response, therefore, is complete and accurate.

**Interrogatory No. 24:**

**REQUEST:** With respect to 209(e), produce any and all documents and studies which show the amount which would be generated by the proposed tariff for local basic exchange service before any reduction due to lifeline and linkup exceptions.

**RESPONSE:** To the extent that it seeks the revenues associated only with "basic local exchange telephone services" as that term is defined in T.C.A. §65-5-208(a)(1), BellSouth objects to the request on the grounds that responding to it would be overly burdensome. Without waiving this objection, the attached documents show the aggregate amount of revenue which would be generated by the proposed tariff. These documents are proprietary and are provided pursuant to the protective order that has been entered in this docket.

BellSouth fully responded to this Item by producing documents showing the aggregate amount of revenue which would be generated by the proposed tariff.

**Interrogatory No. 25:**

**REQUEST:** Please state whether BellSouth's policy, presently or in the past, is to terminate, threaten to terminate or infer impending termination of an end user's local basic exchange service when they do not pay as scheduled on accounts allegedly purchased by BellSouth.

**RESPONSE:** BellSouth objects to the use of the term "threaten" in this Request. Without waiving this objection, BellSouth states that it does not suspend and/or terminate service for non-payment of unregulated charges. Nor does BellSouth terminate service for non-payment of disputed regulated charges.

Instead, BellSouth complies with section A2.2.10 of its Tariff, which allows it to suspend and/or terminate a customer's local exchange service for nonpayment of any sum due for exchange, long distance or other service that

is not in dispute. BellSouth determines each customer's treatment based on that customer's credit status. Moreover, before suspending or terminating the service of a customer who does not subscribe to Lifeline service, BellSouth sends the customer a written notice advising that local service will be denied if the regulated charges are not paid. BellSouth advises Lifeline customers that: local service will be denied if the regulated non-toll charges are not paid; and toll will be denied if the regulated toll charges are not paid.

BellSouth's response fully addresses the question asked by the CAD.

**Interrogatory No. 26:**

**REQUEST:** Please provide any and all scripts used in training and in current day to day customer service which pertain to customer payments which are or may be late and extended.

**RESPONSE:** BellSouth objects to this request on the grounds that it is vague and to the extent that it seeks to require BellSouth to produce a document it does not create or maintain in the ordinary course of business. Without waiving these objections, BellSouth does not have any "scripts" pertaining to customer payments which are or may be late and extended.

The CAD asked for scripts "which pertain to customer payments which are or may be late or extended," and BellSouth's response states that it has no scripts "pertaining to customer payments which are or may be late and extended." How much more clearly could BellSouth answer the question asked by the CAD?

**Interrogatory No. 27:**

**REQUEST:** Please explain the manner and process for the allocation of partial payments to the amounts appearing on BellSouth's bill by classification of service.

**RESPONSE:** The allocation of a partial payment is based on the nature of the customer's service being billed. All partial payments are first allocated to pay outstanding amounts owed for services that would result in a denial of service if not paid. Any remaining amount is applied to "nondeniable" services. An example of this is an outstanding bill that includes local service of \$15 (a "deniable" service) and inside wire of \$5 (a "nondeniable" service). If a payment of \$10.00 was received, it would be applied in total to the "deniable" service. If the partial payment was \$17, the "deniable" service would be credited with \$15 and the remaining \$2 would be applied to the "nondeniable" service.

BellSouth's response clearly explains both the manner in which BellSouth allocates partial payments and the classifications used by BellSouth to allocate partial payments. Once again, BellSouth has answered the question asked by the CAD.

**Interrogatory No. 29:**

**REQUEST:** Please produce each document, email, photograph, or any other article or thing whatsoever, which corroborates any party of BellSouth's claims in this matter, as to all issues, including but not limited to, credibility or any other issue, which is adverse to your contentions regarding the same.

**RESPONSE:** BellSouth objects to this request to the extent that it relates to BellSouth's claim that the late payment charge is not a charge for a basic service on the grounds that that such information is irrelevant in light of the TRA's ruling on that issue. Without waiving this objection, BellSouth states that its claims regarding the Issue No. 2

and T.C.A. §65-5-209(e) are supported by its responses to these discovery requests (including all documents attached thereto); its responses to data requests that have previously been served on the CAD in this docket; the briefs and memorandum BellSouth has already filed in this docket and the statutes, rules, regulations, tariff, cases, and other authority cited therein; the billing contracts which have already been produced to the CAD; and each and every document BellSouth has filed in this docket or served upon the CAD in this docket.

The attached Cost Study is proprietary and is provided pursuant to the protective order that has been entered in this docket.

BellSouth has fully responded to this Item.

**Interrogatory No. 30:**

**REQUEST:** Quote verbatim the provision in the third-party billing arrangements which provide for accessing a late charge or prohibit same. For each provision so quoted provide the name and address of the company involved, the start date and expiration date of the contract or tariff involved, and any communications directed toward consumers evidencing notice of these arrangements to consumers.

**RESPONSE:** BellSouth objects to this request on the grounds that it seeks to require BellSouth to produce a document it does not create or maintain in the ordinary course of business. If the third parties direct such communications to consumers, it is the third parties – not BellSouth – that would be expected to have copies of such communications. In any event, BellSouth is not aware of any "communications directed toward consumers evidencing notice of these arrangements to consumers" that are in BellSouth's possession.

With regard to the remainder of the request, Rule 33.03 of the Tennessee Rules of Civil Procedure provides that

When the answer to an interrogatory may be derived

or ascertained from the business records of the party upon whom the interrogatory has been served . . . , and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford the party serving the interrogatory reasonable opportunity to . . . inspect such records . . . .

On August 23, 2000, BellSouth delivered (pursuant to the protective order entered in this docket) copies of the documents from which the CAD may derive the answer to this request as easily as BellSouth could. BellSouth, therefore, has sufficiently responded to this request.

To the extent that this request seeks any additional response, BellSouth objects to the Request on the grounds that the information sought is obtainable from some other source that is more convenient, less burdensome, or less expensive – namely, the documents themselves.

BellSouth's objection is self-explanatory.

**REQUEST TO MODIFY SCHEDULING ORDER TO  
PERMIT THE TAKING OF DEPOSITIONS**

The Motion to Take Depositions violates the spirit, if not the letter, of the Order of the Pre-Hearing Officer entered November 28, 2000. As stated in that Order, the Authority instituted a discovery schedule at its September 26, 2000 Conference pertaining to the two outstanding issues articulated by the Directors at that Conference. Subsequently, the Pre-Hearing Officer reinstated the discovery schedule for those two issues. The procedural schedule included a schedule for

the filing of discovery. BellSouth believed that the discovery requests and responses referenced in the schedule were intended to represent interrogatories and requests for documents. This is consistent with the Authority's general practice of not requiring depositions. It is also consistent with the language set forth in the Pre-Hearing Officer's Order of November 28, 2000 which stated that "all pleadings are to be filed with the Authority and served on opposing counsel by hand or facsimile no later than 2:00 p.m. ...."<sup>2</sup> This language clearly contemplates the filing of written discovery as opposed to oral depositions. While in a few other proceedings before the Authority, parties have voluntarily agreed to take depositions, the Authority has, to BellSouth's knowledge, never required parties to submit to depositions. Depositions, which can be time consuming and expensive, are not necessary and would delay the disposition of this case.

### **CONCLUSION**

As explained above, BellSouth has either properly answered each Item or has raised an appropriate objection which should be sustained. The TRA should deny

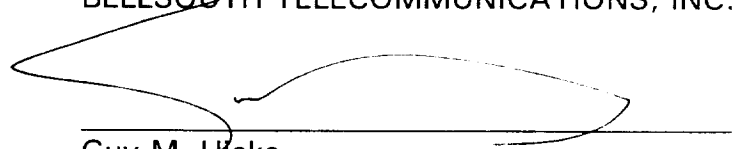
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<sup>2</sup> This date has since been extended to January 18, 2001 by agreement of the parties.

the CAD's Motion in its entirety and allow this docket to proceed to a resolution as quickly as possible.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Guy M. Hicks", is written over a horizontal line.

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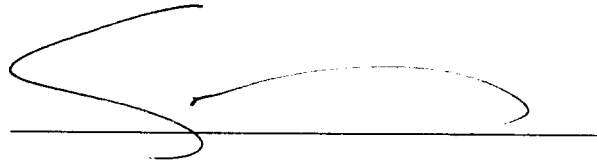


**CERTIFICATE OF SERVICE**

I hereby certify that on January 16, 2001, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☐ Hand
- ☐ Mail
- ☒ Facsimile
- ☐ Overnight

Timothy Phillips, Esquire  
Office of Tennessee Attorney General  
425 Fifth Avenue North  
Nashville, Tennessee 37243

A handwritten signature in black ink, consisting of a large, stylized 'S' shape followed by a horizontal line and a small loop at the end.